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Attorneys for Defendant/Counter-Plaintiff,
KEATING DENTAL ARTS, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

13 JAMES R. GLIDEWELL DENTAL
14 CERAMICS, INC. dba GLIDEWELL
15 LABORATORIES,
16 Plaintiff,
17 v.
18 KEATING DENTAL ARTS, INC.
19 Defendant.
20 AND RELATED COUNTERCLAIMS.
)
) Civil Action No.
) SACV11-01309-DOC(ANx)
)
) **DECLARATION OF DR.**
) **RICHARD SCOTT IN**
) **SUPPORT OF KEATING**
) **DENTAL ARTS, INC.'S**
) **MOTIONS FOR SUMMARY**
) **JUDGMENT**
)
) Honorable David O. Carter
)

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1 I, Dr. Richard Scott, hereby declare as follows:

2 I am a practicing dentist who has purchased dental restorations from
3 Keating Dental Arts, Inc. (“Keating”). My dental office is located at 215 N.
4 State College Blvd., Suite E, Anaheim, CA 92806. I have personal knowledge
5 of the matters set forth herein. If called upon to testify, I could and would
6 testify as follows:

7 1. I am licensed to practice dentistry in the state of California. I
8 received an undergraduate degree from Fresno State University in 1962 even
9 though I began my dental school education in 1960. In 1964, I received a
10 Doctor of Dental Surgery from the University of Pittsburgh. I have been
11 practicing as a licensed dentist for 48 years. During that time, it has been a
12 regular part of my practice to treat patients in need of dental restorations.

13 2. To address my patients in need of dental restorations, it has been
14 my practice to purchase crowns and bridges from dental laboratories that
15 manufacture the restorations in response to my specifications. In this regard, I
16 provide the dental laboratories with a prescription form that identifies the
17 patient, the tooth (or teeth), and the specific dental restoration product that I
18 would like manufactured for the patient.

19 3. Since my dental practice began in 1964, I have ordered dental
20 restorations from a number of different dental laboratories. I have been ordering
21 dental restorations from Keating since May 2010. I am aware of Glidewell
22 Laboratories and its dental restoration products. I have ordered these products
23 from Glidewell in the past but found their quality to be spotty. I have found
24 Keating’s quality to be consistent which is why I currently order from Keating.

25 4. I have ordered many different types of dental restorations from
26 Keating, including porcelain-fused-to-metal crowns, gold crowns, and crowns
27 containing zirconia.

28 5. The first time I ordered a crown containing zirconia from Keating

1 was in December 2010 when I ordered a “KDZ” crown. In 2010, Keating’s
2 “KDZ” crown had a zirconia substructure with a porcelain overlay.

3 6. The first time I ordered a full contour zirconia crown from Keating
4 was in May 2011 when I ordered what Keating calls a KDZ Bruxer crown. I
5 ordered Keating’s KDZ Bruxer crown for a patient where I wanted greater
6 strength in the molar region of the mouth than I would get from a crown with a
7 porcelain overlay.

8 7. I learned of Keating’s KDZ Bruxer product from marketing
9 materials Keating sent to me as a customer of their lab.

10 8. More recently, in August 2012, I ordered a KDZ Bruxer crown
11 from Keating for tooth #2 for one of my patients. Attached as **Exhibit A** is a
12 true and correct copy of the Keating Dental Arts prescription form that I
13 submitted to Keating for this order.

14 9. In the order form attached as Exhibit A, I specified the product that
15 I was ordering by writing “#2 Bruxir” in the “Instructions” section of the form. I
16 wrote “Bruxir” on the prescription form because to me that term meant a full
17 contour zirconia crown for bruxers. I knew I was ordering the crown from
18 Keating and I wanted to receive a crown made by Keating.

19 10. When I wrote “Bruxir” on the prescription form, I did not intend to
20 order a crown made by Glidewell Laboratories. Nor did I intend to order a
21 crown made from material provided by Glidewell Laboratories. When ordering
22 the KDZ Bruxer crown, I did not think there was any affiliation between
23 Keating and Glidewell Laboratories.

24 11. When all zirconia crowns were first introduced in the dental
25 industry, I learned that they were basically unbreakable and able to withstand
26 the forces created by a bruxer, or patient with bruxism. I associated the
27 functionality of the crowns being useful on bruxers with the name “bruxer”
28 crown, or similarly, “bruxzir” crown or “bruxir” crown. I understand these

1 terms to all carry the same meaning as they are pronounced the same and
2 describe a crown strong enough to use on a patient who bruxes. The "zir" in
3 "bruxzir" identifies that it is made out of zirconia. To me, these terms do not
4 identify any specific company or any specific company's product.

5 12. Soon after sending the prescription form attached as Exhibit A to
6 Keating, I was contacted by a Keating employee to clarify my order.
7 Specifically, the Keating employee asked me to confirm that I wanted to order
8 Keating's KDZ Bruxer product. The Keating employee explained that the term
9 "BruxZir" is a brand name of another dental laboratory, and the employee
10 offered to return the order to me if I wanted to order from another dental
11 laboratory. I confirmed that I wanted to order Keating's full contour zirconia
12 crown.

13 I declare under penalty of perjury under the laws of the United States of
14 America that the foregoing is true and correct.
15

16 Executed November 6, 2012, in Anaheim, California.
17

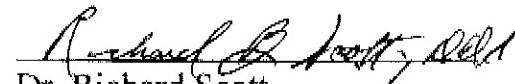
18 
19 Dr. Richard Scott
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EXHIBIT A



Rx SPECIFIC INSTRUCTIONS

* Standard unless specified

#2 Bruxiv

#14 Emax

Doctor's Account #

SCOR

Phone # (714) 635-0892

Dr.

DR. RICHARD SCOTT

Patient

REDACTED

LAST

FIRST

Date Due In Office

8/16/12

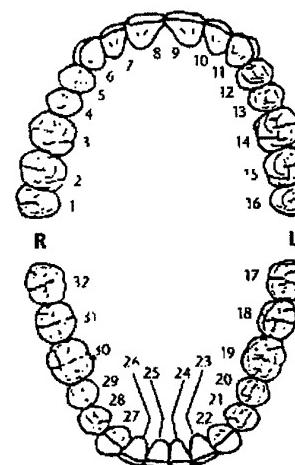
PLEASE SEND:

- RX forms Boxes Mailing labels

ENCLOSURES

LAB USE ONLY

- Photo(s) Analog Models
 Implant parts Impression Site
 Shade lab Other



- PFM**
- Non-precious*
 - Semi-precious
 - White high noble
 - Yellow high noble
 - Captek™

IMPLANTS

- CROWN**
- PFM- Semi-precious*
 - PFM- White high noble
 - Full cast yellow semi-precious
 - Captek™
 - High noble 56
 - KDJ Max
 - KDJ Ultra
 - IPS® e.max

ABUTMENT

- Atlantis™**
- Titanium* Gold-hue
 - Zirconia
 - 31°**
 - Titanium Zirconia
 - Gold anodized
 - Custom UCLA

FULL CAST

- High Noble 56-Type III
- Gold inlay/onlay-Type II (JRVT)
- White High Noble
- White semi-precious
- Yellow semi-precious

METAL-FREE RESTORATIONS

KDJ Family (CAD/CAM)

- KDJ Bruxer

- KDJ Max

- KDJ Ultra*

- Proceras®

Pressables

- IPS® Empress Esthetic

- Stained & glazed only*

- Cut-back & layered

Stump shade required

- IPS® e.max

- Stained & glazed only*

- Cut-back & layered

Stump shade required

Veneers

- KDA Foil Veneers
(Stacked feldspathic porcelain)

- IPS® Empress Esthetic*

- IPS® e.max

Stump shade required

KDA TEMPS

- Diagnostic wax-up

Abutments #: _____

Pontics #: _____

- Wire* Cast metal frame

- Splinted Individual

APPLIANCES

- Night Guard - Astron CLEARsplint™

- Night Guard - Hard Thermoformed

- Bleaching Tray

- Foam liner

- Reservoir

- Clear Pro-Guard

- Night Guard - Hard Hand Waxed

- Night Guard - Soft

- Ultra Guard (hard/soft)

- 1.0 mil Clear Ortho Retainer

Signature: *Richard Scott DDS* 18189

TERMS: Customer agrees to company policy as stated on reverse.

Age: 20

Sex: male

 Dr. to die trim Metal try-in Finish to porcelain

Please indicate the distribution of hues and the types of characteristics desired:

SHADE INSTRUCTIONS

Vita-Lumin: A 3.5

Noritake: _____

Vita-3D: _____

Stump shade: _____

**BUCCAL COLLAR DESIGN**

- Hairline or ____ mm buccal
 Porcelain junction margin*
 Porcelain butt margin (90° shoulder required)

IF NO OCCLUSAL CLEARANCE

- Metal occlusion
 Reduction coping
 Spot opposing
 Make permanent note

ANTERIOR DESIGN

- 1/4 Metal lingual
 1/2 Metal lingual
 3/4 Metal lingual

METAL DESIGN

- All porcelain coverage
 Metal coping with porcelain coverage*
 Metal occlusal excluding buccal CUSP
 Metal occlusal including buccal CUSP

OCCLUSAL STAINING

- None Light*
 Medium Dark

PONTIC DESIGN

- Modified ridge lap*
 Full ridge lap
 Sanitary
 Bullet
 Ovate

REMOVABLES

- KDA Denture
 KDA Premium Denture
 KDA Ultra Premium Denture
 Locator retained
 Bar retained (Titanium bar)
 Screw retained hybrid (Titanium bar)
- TCS®/Valplast® Partial Complete
 TCS®/Bego
 Valplast®/Bego
 Cast chrome
 Acrylic stayplate
 Delineator™
- Lab select complete design
 Frame try-in
 Frame w/occlus. rim
 Frame w/set-up try-in
 Finish